



UNITED STATES PATENT AND TRADEMARK OFFICE

cl

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,063	11/27/2001	Kenneth W. Michaels	J-3153A	9539

28165 7590 03/04/2004
S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

EXAMINER

NICOLAS, FREDERICK C

ART UNIT	PAPER NUMBER
----------	--------------

3754

DATE MAILED: 03/04/2004

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,063

Applicant(s)

MICHAELS ET AL.

Examiner

Frederick C. Nicolas

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) 7,9-13,20,22-26,36 and 38-78 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28-35 and 37 is/are allowed.
- 6) ☒ Claim(s) 1-6,8,14-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 1-6,8, are withdrawn in view of the newly discovered reference(s) to Green 3,942,725. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3,8,14-16,21, are rejected under 35 U.S.C. 102(b) as being anticipated by Green 3,942,725.

With respect to claims 1,14, Green discloses a container for product as seen in Figure 1, which comprises a container body (3) defining a space for storage of the product (col. 5, ll. 17-24), a valve (2) in fluid communication with the space, a hollow stem (18) in fluid communication with the valve and has a tapered outside surface (24) extending to a reduced diameter tip terminating in an exterior end that has at least one side opening (37, 38) therethrough wherein the valve is actuable to dispense product through the side opening (col. 5, ll. 53-68 onto col. 6, ll. 1-34).

With respect to claims 2-3,15-16, Green discloses that the exterior end includes a profiled end surface that defines the at least one side opening (37), and the profiled end surface forms a slot as seen in Figure 4.

With respect to claims 8,21, Green discloses that the profiled end surface forms a crenellated section as seen in Figure 2.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6,17-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Green 3,942,725 in view of Paul et al. FR 1,099,584.

Green has taught all the features of the claimed invention except that the slot defines first and second side openings. Paul et al. teach the use of a hollow stem (5) with an exterior end that has at least one side opening/slot (8) therethrough, where the slot defines first and second side openings as seen in Figure 2, each of the first and second side openings is defined by a base surface see Figure 1 for location of the base surface, and a pair of side surfaces as seen in Figure 2, the side surfaces are substantially perpendicular to the base surface as seen in Figures 1-2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Green's hollow stem slot (37) by extending the slot across the stem body as taught by Paul et al. in Figure 2, in order to form a turbulent mixture of the products at the exit orifice.

Allowable Subject Matter

6. Claims 28-35,37 are allowed.

7. Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed 2/17/2004 have been fully considered but are moot in view of the new ground(s) of rejection. Any remaining arguments have been fully addressed in the above rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (703)-305-6385. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mancene L. Gene, can be reached on 703-308-2696. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Application/Control Number: 09/995,063


Page 5

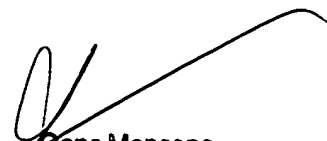
Art Unit: 3754

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN

March 1, 2004

 3/1/04


Gene Mancene
Supervisory Patent Examiner
Group 3700